UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

Horizon Global Americas Inc.

Plaintiff,

v.

Trac Outdoor Products Company,

Defendant.
______________________________________/

Case No. 2:17-cv-11753

Judge

Demand For Jury Trial

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Complaint

For its complaint against defendant Trac Outdoor Products Company ("Trac"), plaintiff Horizon Global Americas Inc. ("Horizon") states:

Summary of Case

1. This is an action for damages and injunctive relief to remedy the infringement by Trac of U.S. Patent No. 9,206,022 ("the '022 patent").

2. The '022 patent is directed to an improved, unique winch assembly.

The Parties

3. Horizon is a Delaware corporation with a principal place of business in Michigan.

4. Trac is a Tennessee corporation with a principal place of business in Tennessee.

Jurisdiction And Venue

5. This Court has subject matter jurisdiction over Horizon's patent infringement claim under 28 U.S.C. § 1331 and § 1338 because it arises under federal law.

6. This Court has personal jurisdiction over Trac on various grounds, including (without limitation) because it has offered to sell and, upon

information and belief, has actually sold products infringing the '022 patent in Michigan; it intentionally caused tortious harm to Horizon in Michigan resulting from its infringing activities, with knowledge that such harm would be sustained by Horizon in Michigan; and, upon information and belief, it has regularly solicited business in Michigan, engaged in a persistent course of conducting business in Michigan, and derived substantial revenue from goods sold in Michigan.

7. Venue is proper under 28 U.S.C. § 1400 because Trac has committed acts of infringement in this district, and it has a regular and established place of business in this district. Among other things, Trac operates an online store in this district at www.tracoutdoor.com that offers to sell Infringing Products (defined *infra*) in this district and through which customers in this district can order, and upon information and belief have ordered, Infringing Products for shipment into this district. Trac also partners with online stores, including Amazon.com, that operate in this district, that can be accessed in this district, and which will ship, and upon information and belief have shipped, Trac's products into this district. Trac also has retail partners that own and operate brick-and-mortar stores in this district that sell Trac's products in this district, including Cabela's, Bass Pro Shops, and

Gander Mountain. Trac's website touts these retailers as "Our Retail Partners" and the Trac website provides a tool for customers to find the street address for its retail partners' Michigan stores.

Relevant Facts

I. The Patent

8. Since around 1950, Horizon and its predecessors and affiliates have designed, produced, manufactured, and marketed a wide array of innovative automotive products, winches, towing and trailer hitch products and accessories for trailer equipment manufacturers, wholesaler-distributors, and retail markets.

9. Under its popular *Fulton*® brand name, Horizon is a market leader in winches and winch design.

10. The '022 patent issued on December 8, 2015.

11. The '022 patent claims improvements to winches and installation of winches for various applications, including the marine industry.

12. Horizon is the exclusive owner of the '022 patent.

II. Trac's Infringement of the '022 Patent

13. Trac is making, importing, using, selling, and/or offering to sell winches in the United States that are covered by one or more claims of the

’022 patent, including, without limitation the Big Water 45 Salt Water Series Electric Anchor Winch, the Lite Cruiser Electric Trailer Winch, the Day Runner Electric, and the TRAC Small Craft Trailer Winch (the “Infringing Products”).

14. Trac offers to sell and sells Infringing Products throughout the United States and in this district.

15. Horizon has sent Trac a letter demanding that Trac ceases and desist from its infringement of the ’022 patent. But Trac has continued to sell the Infringing Products and thereby intentionally continued its infringement with actual knowledge of the ‘022 patent and of its infringement.

Count One

Patent Infringement

16. Horizon incorporates by reference all allegations in all preceding paragraphs of this complaint as if fully rewritten herein.

17. The Infringing Products are covered by one or more claims of the ’022 patent.

18. Trac has directly infringed, and continues to directly infringe, the ’022 patent by selling, offering to sell, using, making and/or importing the Infringing Products in the United States.

19. Each of the Infringing Products' only commercial use is as a winch.

20. Any use of each of the Infringing Products as a winch is an act of direct infringement of the '022 patent.

21. Because the sole intended use of each of the Infringing Products is an infringing use, the Infringing Products have no substantial non-infringing uses.

22. Trac has induced infringement of the '022 patent at least because, with knowledge of the '022 patent, it intentionally and actively induced end users of the Infringing Products to use them in a manner that infringes the '022 patent with specific intent that they do so.

23. Trac has further induced infringement of the '022 patent by selling the Infringing Products to distributors, retailers, and other resellers with specific intent that they infringe the '022 patent by reselling the Infringing Products to others.

24. Trac has contributed to infringement of the '022 patent at least by selling the Infringing Products, which have no substantial use other than an infringing use as a winch.

25. Trac's infringements of the '022 patent were, and continue to be, willful and deliberate.

26. Horizon has been damaged by Trac's infringing activities, and it will continue to be irreparably injured unless the infringing activities are enjoined by this Court.

Prayer for Relief

WHEREFORE, Horizon prays for judgment against Trac as follows:

(A) A finding that Trac has directly infringed one or more claims of the '022 patent under 35 U.S.C. § 271(a).

(B) A finding that Trac has induced infringement of one or more claims of the '022 patent under 35 U.S.C. § 271(b).

(C) A finding that Trac has contributed to the infringement of one or more claims of the '022 patent under 35 U.S.C. § 271(c).

(D) Preliminary and permanent injunctive relief enjoining Trac and its officers, directors, managers, employees, affiliates, agents, representatives, parents, subsidiaries, successors, assigns, those in privity with them, and all others aiding, abetting, or acting in concert or active participation therewith, from: (1) making, using, selling, offering to sell, or importing into the U.S. any device covered by the '022 patent under; or (2) otherwise directly or indirectly infringing the '022 patent.

(E) Compensatory damages under 35 U.S.C. § 284.

(F) Treble damages under 35 U.S.C. § 284.

(G) An order that Trac accounts to Horizon for all sales, revenues, and profits derived from their infringing activities and that three times those profits be disgorged and paid to Horizon under 35 U.S.C. § 284.

(H) Attorneys' fees under 35 U.S.C. § 285.

(I) Pre-judgment and post-judgment interest.

(J) Costs of the action.

(K) Such other and further relief as allowed at law or in equity that the Court deems to be appropriate.

Dated: June 2, 2017

s/ Matthew J. Cavanagh
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Jury Demand

Plaintiff Horizon Global Americas Inc. hereby demands a jury trial for all issues so triable.

s/ Matthew J. Cavanagh
Counsel for
Horizon Global Americas Inc.